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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,765	05/15/2006	Daniel Wigdor	03-930-E	7397
20306 7590 01/30/2009 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606				
EXAMINER WALSH, DANIEL I				
ART UNIT		PAPER NUMBER		
2887				
MAIL DATE		DELIVERY MODE		
01/30/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/560,765

**Applicant(s)**

WIGDOR, DANIEL

**Examiner**

DANIEL WALSH

**Art Unit**

2887

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-23 is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SG/IC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date 3-27-06, 5-1-06, 7-3-08

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because FIG. 1 should be labeled prior art, there are no reference numbers for FIG. 2 and FIG. 3 lacks cited reference number 300. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by TiltType, as cited by the Applicant.

Re claim 1, TiltType teaches a keypad having a plurality of buttons at least one of the buttons being associated with two or more characters, a tilt sensor operable to detect a tilt subjected to the portable device by a user and a processor programmed to identify one of the two or more characters based on one of the plurality of buttons being pressed concurrently with the tilt subjected by the user (abstract+).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teletype, as discussed above.

Re claim 2, TiltType teaches that TiltType is particular suited to small devices but it is not limited to them. Though silent to use in a mobile phone, as mobile phones have buttons and

key input, it would have been obvious to one of ordinary skill in the art to apply the TiltType to mobile phones, with the expected benefit of ease of entry. The claims structural limitations are conventional for mobile phones for ease of use, and therefore is an obvious expedient.

Re claim 3, FIG. 2-3 show the tilt detected along the first axis

Re claim 4, a northwest direction can be interpreted as along 2 axes, for example.

Re claim 5-8, the limitations have been discussed above. Though silent to specific tilts corresponding to particular characters, the Examiner notes that as the concept of tilt and button pushing for character input has been taught, the correspondence between tilts and characters is an obvious matter of design variation.

Re claims 9-17, the limitations have been discussed above. As mapping of characters with title and button pushing is taught (FIG. 2) it is understood that a comparison is performed electronically to determine character output, and thought silent to a tilt menu, the correspondence of data is functionally equivalent, by comparing to stored ranges/tilt values. TiltType teaches (Paragraph 2 of The TiltType User Interface) that tilt can be determined during button holding (hence, concurrently).

6. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirshberg (US 20020027549)

Hirshberg teaches a keypad on a touch screen where at least one of the buttons is associated with two or more characters (abstract), on a keypad that can include 12 or more keys (paragraph [0070]+), and that there is a processor that identifies the characters (abstract). Though silent to detecting tilt, the Examiner has interpreted that by pressing a different area on a button, that a tilt is subjected to the portable device by the user tilting the buttons.

Re claim 2, though silent to a standard 12 key, the Examiner notes that it would have been obvious to apply the teachings to different keypads of mobile devices for the expected use of ease of input, noting that a 12 button pad is conventional in the art for phones.

Re claim 3-8, 10-17, Hirshberg teaches that the portable device is a mobile phone having a front face, left and right sides, a top and bottom, and that the keypad is a standard 12 button alphanumeric keypad on the front face of the phone (see paragraph 28). In addition, Hirshberg teaches that the tilt is detected along different axes and that a processor is used along with the tilt sensor (see paragraphs 15-28).

Re claim 9, though silent to a tilt menu, the Examiner notes that a mapping permits the character to be determined via comparison, which is functionally equivalent to a predefined menu.

Further, the Examiner notes that as the general teachings of tilt for characters has been discussed above, the correspondence of tilts with corresponding characters, is an obvious matter of design variation (certain tilts being associated with certain letters/numbers/characters).

***Allowable Subject Matter***

7. Claim 18-23 are allowed.
8. The following is an examiner's statement of reasons for allowance: The prior art of record fails to teach maintaining a sample stack indicative of past tilt samples and determining tilt states by comparing a most recent tilt to at least one of the past tilt samples (re claim 18).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL WALSH whose telephone number is (571)272-2409. The examiner can normally be reached on M-F 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL WALSH/  
Primary Examiner, Art Unit 2887